IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION NO :14562 of 2005

Between:

M/s. Vadilal Chemicals Ltd., Plot No.18-A, APIIC Industries Estate, Patancheru, Medak District, rep. by its authorized signatory, Mr. J. Rajender.

..... PETITIONER

AND

1 Addl. Commissioner of Commercial Taxes (Legal), A.P., Hyderabad.
2 Deputy Commissioner (CT), Hyderabad (Rural), Hyderabad.
3 Commercial Tax Officer, Hydernagar Circle, R.R.District, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue writ, order or direction more particularly in the nature of writ of Mandamus, declaring the order of the Addl. Commissioner (CT) (Legal), 3rd respondent herein in CCT's Ref.No.L III (3) /520/2005, dt. 27.05.2005 in so far as dismissing the stay petition as illegal, void and inoperative, apart from being arbitrary and accordingly set-aside the same (ii) and interdict the respondent authorities from collecting sales tax of Rs. 2,28,128/- in pursuance of the order of the C.T.O. Hydernagar Circle, RR.District, Hyderabad, 3rd respondent herein bearing Assessment No.--/2001-02/APGST dt. 27.02.2004 until disposal of the appeal by the Sales Tax Appellate Tribunal, Hyderabad in A.R.No.449 of 2005.

Counsel for the Petitioner:MR.S.CHAKRAPANI

Counsel for the Respondents: GP FOR COMMERCIAL TAXES

The Court made the following :

ORAL ORDER: (per the Hon'ble Sri Bilal Nazki, ACJ)

Heard learned counsel for the parties. With their consent, the writ petition is disposed of at this stage.

The controversy is that pending an appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal. Any amount paid during the pendency of the appeal, may be given set off.

The writ petition is disposed of accordingly. No costs.

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BILAL NAZKI, ACJ

DATE: 6th July, 2005

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G. CHANDRAIAH,J

Pnb

To

1 The Additional Commissioner of Commercial Taxes, Legal, Andhra Pradesh, Hyderabad.
2 The Deputy Commissioner (CT), Hyderabad (Rural), Hyderabad.

3 The Commercial Tax Officer,Hydernagar Circle, R.R. District, Hyderabad. .

4 Two C.Cs. to the Government Pleader for Commercial Taxes, High Court Buildings, Hyderabad. (OUT)

5 Two C.D. copies